

Introduced by Senator Wyland

February 14, 2011

An act to amend Sections 226.7 and 512 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 319, as introduced, Wyland. Meal and rest periods: exceptions.

Existing law prohibits, with specified exceptions, an employer from requiring any employee to work during a meal or rest period mandated by an applicable order of the Industrial Welfare Commission. Existing law requires, with specified exceptions, employers to provide meal and rest periods to employees during work periods of specified duration.

This bill would exempt from these provisions an employee in the transportation industry whose work places him or her inside an armored car in shifts during a workday.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 226.7 of the Labor Code is amended to
- 2 read:
- 3 226.7. (a) No employer shall require any employee to work
- 4 during any meal or rest period mandated by an applicable order
- 5 of the Industrial Welfare Commission.
- 6 (b) If an employer fails to provide an employee a meal period
- 7 or rest period in accordance with an applicable order of the
- 8 Industrial Welfare Commission, the employer shall pay the
- 9 employee one additional hour of pay at the employee's regular

1 rate of compensation for each work day that the meal or rest period
2 is not provided.

3 *(c) Subdivisions (a) and (b) do not apply to an employee in the*
4 *transportation industry whose work places him or her inside an*
5 *armored car in shifts during a workday.*

6 SEC. 2. Section 512 of the Labor Code is amended to read:

7 512. (a) An employer ~~may~~ *shall* not employ an employee for
8 a work period of more than five hours per day without providing
9 the employee with a meal period of not less than 30 minutes, except
10 that if the total work period per day of the employee is no more
11 than six hours, the meal period may be waived by mutual consent
12 of both the employer and employee. An employer ~~may~~ *shall* not
13 employ an employee for a work period of more than 10 hours per
14 day without providing the employee with a second meal period of
15 not less than 30 minutes, except that if the total hours worked is
16 no more than 12 hours, the second meal period may be waived by
17 mutual consent of the employer and the employee only if the first
18 meal period was not waived.

19 (b) Notwithstanding subdivision (a), the Industrial Welfare
20 Commission may adopt a working condition order permitting a
21 meal period to commence after six hours of work if the commission
22 determines that the order is consistent with the health and welfare
23 of the affected employees.

24 (c) Subdivision (a) does not apply to an employee in the
25 wholesale baking industry who is subject to an Industrial Welfare
26 Commission wage order and who is covered by a valid collective
27 bargaining agreement that provides for a 35-hour workweek
28 consisting of five 7-hour days, payment of one and one-half times
29 the regular rate of pay for time worked in excess of seven hours
30 per day, and a rest period of not less than 10 minutes every two
31 hours.

32 *(d) Subdivision (a) does not apply to an employee in the*
33 *transportation industry whose work places him or her inside an*
34 *armored car in shifts during a workday.*

35 ~~(d)~~

36 (e) If an employee in the motion picture industry or the
37 broadcasting industry, as those industries are defined in Industrial
38 Welfare Commission Wage Order Numbers 11 and 12, is covered
39 by a valid collective bargaining agreement that provides for meal
40 periods and includes a monetary remedy if the employee does not

1 receive a meal period required by the agreement, then the terms,
2 conditions, and remedies of the agreement pertaining to meal
3 periods apply in lieu of the applicable provisions pertaining to
4 meal periods of subdivision (a) of this section, Section 226.7, and
5 Industrial Welfare Commission Wage Order Numbers 11 and 12.

6 ~~(e)~~

7 (f) Subdivisions (a) and (b) do not apply to an employee
8 specified in subdivision ~~(f)~~ (g) if both of the following conditions
9 are satisfied:

10 (1) The employee is covered by a valid collective bargaining
11 agreement.

12 (2) The valid collective bargaining agreement expressly provides
13 for the wages, hours of work, and working conditions of
14 employees, and expressly provides for meal periods for those
15 employees, final and binding arbitration of disputes concerning
16 application of its meal period provisions, premium wage rates for
17 all overtime hours worked, and a regular hourly rate of pay of not
18 less than 30 percent more than the state minimum wage rate.

19 ~~(f)~~

20 (g) Subdivision ~~(e)~~ (f) applies to each of the following
21 employees:

22 (1) An employee employed in a construction occupation.

23 (2) An employee employed as a commercial driver.

24 (3) An employee employed in the security services industry as
25 a security officer who is registered pursuant to Chapter 11.5
26 (commencing with Section 7580) of Division 3 of the Business
27 and Professions Code, and who is employed by a private patrol
28 operator registered pursuant to that chapter.

29 (4) An employee employed by an electrical corporation, a gas
30 corporation, or a local publicly owned electric utility.

31 ~~(g)~~

32 (h) The following definitions apply for the purposes of this
33 section:

34 (1) “Commercial driver” means an employee who operates a
35 vehicle described in Section 260 or 462 of, or subdivision (b) of
36 Section 15210 of, the Vehicle Code.

37 (2) “Construction occupation” means all job classifications
38 associated with construction by Article 2 (commencing with
39 Section 7025) of Chapter 9 of Division 3 of the Business and
40 Professions Code, including work involving alteration, demolition,

1 building, excavation, renovation, remodeling, maintenance,
2 improvement, and repair, and any other similar or related
3 occupation or trade.

4 (3) “Electrical corporation” has the same meaning as provided
5 in Section 218 of the Public Utilities Code.

6 (4) “Gas corporation” has the same meaning as provided in
7 Section 222 of the Public Utilities Code.

8 (5) “Local publicly owned electric utility” has the same meaning
9 as provided in Section 224.3 of the Public Utilities Code.

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